



DT20 R PCT/PTO 08 OCT 2003 #8

Our File: 33956-0049 DJH:lc

IN THE UNITED STATES PATENT AND TRADEMARKS OFFICE

In The Matter of Patent Application:

Applicant : Howard Kaplan (deceased) et al.
Serial No. : 10/070,503
Intern. Filing Date : September 7, 2000
Title : ENHANCED PHAGE DISPLAY LIBRARY OF HUMAN VH
FRAGMENTS AND METHODS FOR PRODUCING SAME
Examiner : Cynthia M. Kratz

BY COURIER

To: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop PCT
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202
U.S.A.

**PETITION TO ACCEPT DECLARATION
UNDER 37 CFR 1.497, 1.42 and 1.47**

Dear Sirs:

Applicant hereby petitions the Commissioner to accept the enclosed Declaration of the above-identified patent application.

Please deduct the petition fee of \$130.00 from our Deposit Account No. 13-2400, pursuant to 37 C.F.R. 1.17(h).

10/15/2003 GFREY1 00000125 132400 10070503

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Background

On March 7, 2002, the applicant filed a transmittal letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with the basic national fee. In response to a Notification of Missing Requirements mailed June 12, 2002, to satisfy the requirement that an oath or declaration of the inventors be furnished, the applicant filed a Declaration on August 12, 2002 that was signed by inventors Joycelyn Entwistle, Jamshid Tanha, Saran Narang, Michael Dan and identifying Carole Grad as a legal representative for the deceased inventor Howard Kaplan.

On December 24, 2002, a Decision on the applicant's submission was mailed indicating that the declaration was unacceptable because it was not signed by Carole Grad as legal representative for the deceased inventor Howard Kaplan and did not clearly state that country of citizenship, former residency and mailing address of both the deceased inventor and the legal representative, as required for compliance with 37 C.F.R. 1.497.

On March 24, 2003, the applicant filed a renewed request, accompanied by handwritten alteration to the originally filed declaration and statement that the legal representative refused to sign the declaration.

On August 8, 2003, the PCT Legal Office issued a Decision that the declaration was defective because it had been amended to include the requested information.

Discussion

The attorney for the PCT Legal Office advised the applicant that, pursuant to 37 C.F.R. 1.42, 1.47 and 1.497, in the case of the death of an inventor, and where the legal representative of the inventor refuses to sign declaration on behalf of the deceased inventor, a Petition under 37 C.F.R. 1.47 is proper. The last know address of the legal representative must be given. The Petition under 37 C.F.R. 1.47(a) must be accompanied by (1) the fee under 37 C.F.R. 1.17(h), (2) factual proof that the non signing joint inventors

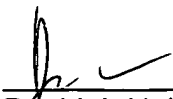
refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non signing inventors; and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non signing joint inventors.

In response, the applicant encloses herein a Declaration executed by inventors Joycelyn Entwistle, Jamshid Tanha, Saran Narang and Michael Dan. The last known address of the legal representative of Carole Grade, legal representative for deceased inventor Howard Kaplan, is given.

We also enclose (1) the fee under 37 C.F.R. 1.17(h) in the amount of \$130.00; (2) factual proof that the non signing joint inventor's legal representative refuses to execute the application, by way of an executed statement from that legal representative refusing to executing the declaration; (3) as set out in the Declaration, the last know address of the non signing inventor's legal representative is: 47 Jessica Gardens, Thornhill, Ontario, L4J 3G1, Canada; and (4) enclosed is the oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non signing joint inventors.

The requirements set out by the attorney advisor of the PCT Legal Office having been met, favour reconsideration is respectfully requested. If anything further is required, please contact the undersigned.

Respectfully Submitted,

By: 
David J. Heller, Reg. No. 43,384

Place: Toronto, Ontario, Canada

Date: October 7, 2003